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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,465	10/20/2003	Reuben Clark	033680-001	4146
7590 06/23/2005				
JEFFREY L. WILSON, ESQ. JENKINS, WILSON & TAYLOR, P.A. 3100 TOWER BOULEVARD SUITE 1400 UNIVERSITY TOWER DURHAM,, NC 27707				
		EXAMINER		
		GUSHI, ROSS N		
		ART UNIT		
		2833		
		PAPER NUMBER		
		2833		

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/689,465

Applicant(s)

CLARK ET AL. 

Examiner

Ross N. Gushi

Art Unit

2833

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 6/3/05
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) ✓ is/are pending in the application. 9, 11-27
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) ✓ is/are rejected. 9, 11-27
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/8/05 6/6/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION.**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9 and 10-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 9 and 18, the term "fixedly positioned" is indefinite. It is not clear whether the term means that the trough can be fixed in a position or whether the trough cannot be positioned at all. The limitation is treated as meaning that the trough cannot be moved relative to the clamp.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 11-13, 17, 18-22, 24, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney et al. ("Mooney") in view of Reichman, Churla, and Meinhardt.

Regarding claims 9, 11, and 12 Mooney discloses a clamping apparatus for electrically connecting at least a first ground wire to a grounding member, the clamping

apparatus comprising: a bottom clamping member 14 comprising a bottom medial portion and a threaded hole on both sides of the bottom medial portion; a top clamping member 13 cooperating with the bottom clamping member and comprising a top medial portion aligned to cooperate with the bottom medial portion and corresponding holes on either side of a top medial portion that correspond to, and are slightly larger in diameter than, the threaded holes to allow a screw (16, 17) to pass through each hole in the top clamping member and thread into the corresponding threaded hole in the bottom clamping member, thereby providing a clamping action around the ground member between the top and bottom clamping members when the screws are tightened, and a fixedly positioned trough 15 including a set screw passing toward conduit 12 to hold cable 11 parallel to the conduit.

Mooney does not disclose that the wire is pressed against the sidewall and the set screw axis intersects the first screw axis.

Reichman discloses a trough comprising a base wall 23 and a first and second side walls (26, 27), where the set screw passes from a side wall of the trough to hold the cable parallel to the conduit. Meinhardt discloses a trough where the set screw passed downward toward the conduit to hold the cable crosswise to the conduit. Churla discloses a trough including set screw passing through a sidewall of the trough to hold the cable crosswise to the conduit. At the time of the invention, it would have been obvious to configure the Mooney trough and set screw as desired regarding whether the screw is directed from a top wall or sidewall and regarding whether the cable is directed parallel to the conduit or perpendicular to the conduit, as taught in Reichman,

Meinhardt, Mooney, and Churla. Such variations in the configurations of the trough and set screw would have been a matter of engineering design choice, being a rearrangement of parts without patentable significance. See In re In re Japikse, 274 F.2d 669 (CCPA 1960).

Per claim 13, one or both of the top and bottom medial portions are crowned in a direction away from the respective other medial portion to create an opening between the top and bottom clamping members for accommodating the grounding member.

Per claim 17, the Mooney/Reichman trough is capable of accommodating an additional second ground wire laid-in along side the first ground wire in the trough, said first and second ground wires being mechanically and electrically connected by the clamping pressure of set screw.

Claims 18-22, 24, 26, and 27 are rejected for the reasons pertaining to claims 9, 11-13, 17.

Claims 14 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney, Reichman, Meinhardt, and Churla as in claims 13 and 18 in view of Bondeson. Mooney does not show serrations. Bondeson discloses serrations 17. At the time of the invention, it would have been obvious to include serrations on the Mooney clamps as taught in Bondeson. The suggestion or motivation for doing so would have been to improve the grip of the clamp on the grounding conduit as taught in Bondeson.

Claims 16 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney, Reichman, Meinhardt, and Churla as in claims 9 and 18 in view of

Shemtov. Reichman arguably does not use a wedge. Shemtov discloses wedge 33. At the time of the invention, it would have been obvious to include a wedge on the Reichman screw as taught in Shemtov. The suggestion or motivation for doing so would have been to better secure the ground wire as taught in Shemtov.

Claims 15 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mooney, Reichman, Meinhardt, and Churla as in claims 13 and 18 in view of Perera. Reichman does not use a rounded screw end. Perera discloses a set screw with a rounded end 34. At the time of the invention, it would have been obvious to modify the Reichman screw end to optimize the contact between the wire and the clamping device, such as by using a rounded screw end as taught in Perera. For example the Perera screw end is useful for use on insulated wire to pierce the insulation on the wire.

### ***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ross Gushi whose telephone number is (571) 272-2005. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Paula A. Bradley, can be reached at 571-272-2800 extension 33. The phone number for the Group's facsimile is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**ROSS GUSHI**  
**PRIMARY EXAMINER**